

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Jagdish Singh

vs. State of Raj. & Ors.

S.B. CR. MISC. PETITION NO. 412/2002

against the order dt.07.6.2001 passed by
Additional Sessions Judge No.3, Jodhur in
Cr.Revision No.43/99.

DATE OF ORDER

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July 19, 2006

PRESENT

HON'BLE MR.H.R.PANWAR,J.

None present for the parties.

BY THE COURT:

Mr.N.S.Rajpurohit appearing on behalf of Mr.S.G.Ojha submits that initially the petitioner engaged Mr.Ojha as counsel for the petitioner, however, subsequently, he took his file and, therefore, he has no instruction to argue the matter on behalf of the petitioner.

No one appears for the parties.

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has assailed the order dt. 7.6.2001 passed by Additional Sessions Judge No.3, Jodhpur (for short 'revisional

court' hereinafter) in Cr.Revision No.43/1999, whereby the revision petition filed by the petitioner against the order dt. 7.5.1999 passed by Additional Collector and District Magistrate (City), Jodhpur (for short 'the Executive Magistrate' hereinafter) in criminal case No.38/97 was dismissed.

I have carefully gone through the memo of criminal misc. petition as also the orders of the revisional court as well as the Executive Magistrate.

Before the revisional court, after filing the revision petition, neither the petitioner nor his counsel appeared. The revisional court hearing the Public Prosecutor and on perusal of the record, came to the conclusion that the finding arrived at by the Executive Magistrate vide order dt. 7.5.1999 is in accordance with law and did not find any error, illegality or perversity therein. In proceeding under section 145 Cr.P.C. before the Executive Magistrate, despite affording several opportunities to the petitioner, the petitioner failed to lead any evidence. On behalf of non-applicant Mangilal, his legal representatives produced the evidence. From the evidence, prima facie, it was established that disputed house was in tenancy of one Sankalchand, who vacated the said house on 21.11.1979 and thereafter, the house was given on rent to non-applicant Mangilal. Since 21.11.1979, Mangilal non-applicant was in possession of the house. This fact has been proved from the

statements of the non-applicant as well as of the neighbourers namely Inderchand and Tej Singh. On the basis of evidence produced before the Executive Magistrate, the Executive Magistrate came to the conclusion that on the relevant date of order, the disputed house was in possession of non-applicant Mangilal and thereafter, his legal representatives and accordingly the possession of the house was delivered to the legal representatives of the non-applicant Mangilal. That order came to be challenged before the revisional court. The revisional court on reappreciation of the evidence, came to the conclusion that the conclusion arrived at by the Executive Magistrate is in accordance with law. In the circumstances, therefore, I do not find any error, illegality or perversity in the orders passed by both the courts below. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court warranting interference in inherent jurisdiction of this Court under section 482 Cr.P.C.

The cr. misc. petition stands dismissed.

[H.R.PANWAR],J.

m.asif/-